

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

RESOLUTION NO. R7-2006-0077

DESIGNATING A HEARING PANEL TO CONDUCT HEARINGS
IN THE EVENT OF ABSENCE OF A QUORUM

- WHEREAS, Under the California Water Code, a regional board is comprised of nine members appointed by the Governor and confirmed by the State Senate for four-year terms; and
- WHEREAS, the minimum quorum for the Regional Water Quality Control Board, Colorado River Basin Region (Regional Board) required to hold a meeting and to conduct business is five members; and
- WHEREAS, the Regional Board has had four vacancies for some time and the appointments of two Board members expire September 18, 2006, although these two members can choose to continue to serve for up to 60 days after their terms have expired if new members are not appointed during that time in their places; and
- WHEREAS, one of the Regional Board members whose appointment expires September 18, 2006, has indicated an intent not to seek reappointment and the other member has timely submitted an application for reappointment, but has not yet received approval from the Governor's office regarding that application; and
- WHEREAS, without at least five members, the Regional Board cannot hold Board meetings or conduct workshops, adopt Waste Discharge Requirements, issue Cease and Desist orders, hold hearings required by California Water Code Section 13323, adopt Administrative Civil Liability orders, or take action on similar types of other business requiring a vote by the Regional Board members in a public meeting; and
- WHEREAS, California Water Code Section 13228.14 permits the Regional Board to appoint a hearing panel of three or more Regional Board members to conduct hearings or investigations relating to investigating the quality of waters of the state, prescribing Waste Discharge Requirements, issuing Cease and Desist orders, requiring the cleanup and abatement of waste, or imposing Administrative Civil Liabilities or penalties; and
- WHEREAS, the Regional Board finds that it is advisable to have the ability to conduct hearings by a panel of three or more members in the event that a quorum is not present at a scheduled Regional Board meeting.

NOW THEREFORE BE IT RESOLVED, that:

1. In the event that a quorum of five Regional Board members is not present at a scheduled Regional Board meeting, the Regional Board may hold evidentiary hearings as a hearing panel as long as at least three Board members are present and can participate in the matter before the Regional Board.
2. The hearing panel may conduct hearings in conjunction with regularly scheduled meetings of the full Regional Board or at special hearings convened for the purpose of hearing one or more matters, as set forth in California Water Code Section 13228.14, provided that the Regional Board satisfies all notice and other requirements of the Bagley-Keene Open Meeting Act (California Government Code Section 11120 et seq.) and California Water Code Section 13228.14.
3. The hearing panel shall not conduct any hearing unless three or more Regional Board members are present and can participate on the panel in the matter before the Regional Board.
4. Following a panel hearing, the panel shall prepare a written report of its proposed decision and order for the Regional Board or any other relevant decision-making body and shall supply a copy to all parties who appeared at the hearing and requested a copy. Regional Board staff may prepare the written report after the panel hearing, subject to the approval of the panel.
5. The Regional Board shall consider the panel's recommendation at the next Regional Board meeting at which a quorum is present. Panel members may sit as members of the Regional Board in deciding the matter. The Regional Board shall make an independent review of the record and may take additional evidence as necessary. No party who appears before the panel is precluded from appearing at the Regional Board meeting. The Regional Board may adopt, revise, or reject the proposed decision and order of the panel.

I, ROBERT PERDUE, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on September 20, 2006.

ROBERT PERDUE, Executive Officer